



3411-15-P

DEPARTMENT OF AGRICULTURE

Forest Service

White River National Forest; Eagle County, CO

Berlaimont Estates Access Route EIS

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: Berlaimont Estates LLC (Berlaimont) owns a 680-acre private inholding (subject property) within the White River National Forest to the north of Interstate 70 in the vicinity of Edwards, Colorado. Berlaimont intends on the developing the property as 19 individual residential lots, with each at least 35 acres in size. Currently, the subject property may be accessed by National Forest System Roads (NFSR) 774 and 780, which connects to the southeastern corner of this horseshoe-shaped subject property.

Berlaimont has applied for an easement to construct, improve, utilize, and maintain an access road for reliable, year-round vehicular access to reach the developable areas (northern portion) of the subject property. Specifically, Berlaimont is proposing to improve segments of the existing NFSR 774 (1.04 miles) and NFSR 780 (3.09 miles), as well as construct a new road segment (1.16 miles) across additional National Forest System (NFS) lands in order to access the northern portion of the subject property.

Improvements would consist of constructing a 20'-wide asphalt road with a 3' gravel shoulder, vehicle turnouts, retaining walls, traffic signs, guardrails, erosion control facilities, and drainage facilities.

DATES: Comments concerning the scope of the analysis must be received by **[INSERT**

DATE 45 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL

REGISTER]. The draft environmental impact statement is expected to be available for public review in the March of 2017 and the final environmental impact statement is expected in the June of 2017.

ADDRESSES: Send written comments to Scott Fitzwilliams, Forest Supervisor, c/o Matt Klein, Realty Specialist, White River National Forest, PO Box 190, Minturn, CO 81645. Comments may also be sent via e-mail to *matthewklein@fs.fed.us* (include “Berlaimont Estate Access Route EIS” in the subject line), electronically at <https://cara.ecosystem-management.org/Public//CommentInput?Project=50041>, or via facsimile to (970) 827-9343.

All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Holy Cross Ranger Station, 24747 U.S. Highway 24, Minturn, CO, 81645. Visitors are encouraged to call ahead to (970) 827-5715 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Additional information related to the project can be obtained from the project webpage:

http://www.fs.fed.us/nepa/nepa_project_exp.php?project=50041 or by contacting Matt Klein, Realty Specialist, Eagle/Holy Cross Ranger District, 24747 US Hwy 24, PO Box 190, Minturn, Colorado 81645. Mr. Klein can be reached by phone at (970) 827-5182 or

by email at *matthewklein@fs.fed.us*.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Estimated Dates

The draft Environmental Impact Statement is expected March of 2017, and the final Environmental Impact Statement is expected June of 2017.

Purpose and Need for Action

The purpose of the proposed project is to provide reliable, year-round vehicular access to the developable portions of Berlaimont's private inholding property.

The need for the proposed project is that the existing NSFRs may not provide adequate access to secure reasonable use and enjoyment of the Berlaimont's property, to which they assert they are entitled under the Alaska National Interest Lands Conservation Act (ANILCA).

Proposed Action

The Proposed Action is to grant an easement to Berlaimont to improve (pave), utilize, and maintain segments of the existing NFSR 774 (1.04 miles) and NFSR 780 (3.09 miles), which grants access to the southeastern corner of the property only.

Possible Alternatives

An alternative will also be analyzed that includes the proposed action with the addition of constructing, utilizing, and maintaining a new road segment (1.16 miles) across

NFS lands in order to access the northern portion of the subject property.

Responsible Official

The Responsible Official is Mr. Scott Fitzwilliams, Forest Supervisor, c/o Matt Klein, Realty Specialist, White River National Forest, PO Box 190, Minturn, CO 81645.

Nature of Decision To Be Made

Based on the analysis that will be documented in the forthcoming EIS, the Responsible Official will decide whether or not to implement, in whole or in part, the Proposed Action or another alternative that may be developed by the Forest Service as a result of scoping.

Scoping Process

This Notice of Intent initiates the scoping process, which guides the development of the Environmental Impact Statement (EIS). The Forest Service is soliciting comments from Federal, State and local agencies and other individuals or organizations that may be interested in or affected by implementation of the proposed project. Public questions and comments regarding this proposal are an integral part of this environmental analysis process. Input provided by interested and/or affected individuals, organizations and governmental agencies will be used to identify alternative actions and resource issues that will be analyzed in the EIS. The Forest Service will identify significant issues raised during the scoping process, and use them to formulate alternatives, prescribe mitigation measures and project design features, or analyze environmental effects.

A public open house meeting will be held on Wednesday, September 7th, 2016 from 6:00 p.m. to 9:00 p.m. at the Edwards facility for Eagle County EMS/Paramedics (1055 Edwards Village Blvd., Edwards, CO 81632). The meeting will be held in the classroom.

It is important that reviewers provide their comments at such times and in such manner that they are useful to the agency's preparation of the EIS. Therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions.

Comments received in response to this solicitation, including names and addresses of those who comment, will be part of the public record for this proposed action. Comments submitted anonymously will be accepted and considered, however.

There will be an additional opportunity to comment when the Notice of Availability of the Draft EIS is published in the *Federal Register*. For objection eligibility, each individual or representative from each entity submitting written comments must either sign the comment or verify identity upon request. Individuals and organizations wishing to be eligible to object must meet the information requirements in 36 CFR §218.25(a)(3).

Preliminary Issues

Section 1323(a) of the ANILCA statute (incorporated into 36 CFR Subpart D) compels the agency to authorize access to non-Federal land within the boundaries of NFS lands [i.e. inholdings], to the extent that such access is adequate for providing reasonable use and enjoyment of that inholding consistent with other, similarly situated non-Federal lands.

In addition to providing reasonable use and enjoyment, 36 CFR Subpart D requires that any authorized access route be located and constructed so as to minimize damage or disturbance to NFS lands and resources.

Consequently, a key issue for this project is to determine what route location(s) and level of construction are necessary in order to achieve "adequate access" for "reasonable use

and enjoyment” of the applicant’s inholding property.

Permits or Licenses Required

This Proposed Action considers the issuance of a road easement from the Forest Service to Berlaimont under the authority of the Federal Land Policy and Management Act of 1976 (FLPMA).

Comment Requested

The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the Federal Register.

The Forest Service believes, at this early state, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft Environmental Impact Statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer’s positions and contentions. Vermont Yankee Nuclear Power Corp. v. NRDC, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft Environmental Impact Statement stage but that are not raised until after completion the final Environmental Impact Statement may be waived or dismissed by the courts. City of Angoon v. Hodel, 803 F.2d 1016, 1022 (9th Cir. 1986) and Wisconsin Heritages, Inc. v. Harris, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can

meaningfully consider them and respond to them in the final environmental impact statement

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft Environmental Impact Statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft Environmental Impact Statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Dated: August 12, 2016.

Scott G. Fitzwilliams
Forest Supervisor

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